

**DEPARTMENT OF REAL ESTATE**

PO Box 187000

Sacramento, CA 95818-7000

916 227-0770



March 24, 2009

Bayview Residential Brokerage  
Julia Schloss, Designated Officer  
1190 S. Bascom Ave Suite 105  
San Jose, CA 95128

Re: Advance Fee Agreement

This letter will acknowledge our receipt of your advance fee agreement and accounting format on March 18, 2009.

The Department has no objection to your use of the advance fee agreement and accounting statement as submitted.

Please note that any changes to the agreement or the accounting format must be submitted to the Department for review before it is used. Any promotional materials that you may subsequently wish to use will require our prior review, as well. This includes press releases and announcements related to your advance fee activities.

This letter does not constitute, nor may you make any representation that the Department of Real Estate has endorsed or approved any aspect of your business activities.

Sincerely,

Sylvia I. Yrigollen  
Senior Deputy Commissioner  
Advance Fee Review Section



## **Bayview Residential**

### **Bayview Residential Brokerage Loan Modification Submission Package**

Borrower's Name: \_\_\_\_\_

Property Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Email: \_\_\_\_\_

Client's Lender: \_\_\_\_\_

Lender's Address: \_\_\_\_\_

Lender's Loan Account Number: \_\_\_\_\_

Approximate Loan Balance: \$ \_\_\_\_\_

#### **Loan Modification Requirements:**

In order to best assist you in finding a solution, we need to carefully review your financial circumstances. Please complete and sign all of the enclosed documents and submit to your Loan Modification Consultant:

1. Residential Loan Modification Agreement
2. Authorization Form
3. Fee Acknowledgement
4. Acknowledgement of refund policy
5. Loan Modification worksheet
6. Financial Information worksheet

7. Hardship description
8. Hardship letter
9. Proposed modification form
10. Required document checklist

We may require additional information and/or documentation, depending on your individual situation. Normal collection proceedings up to and including foreclosure, may continue during the process of review of a potential mortgage loan modification. Therefore, please provide us with the required financial information as soon as possible, in order for Bayview Residential to better evaluate your options for possibly avoiding foreclosure and potentially modifying your existing mortgage loan.

**Bayview Residential Brokerage  
Residential Loan Modification Agreement**

**Date:** \_\_\_\_\_ (“Effective Date”)

**BORROWER (“CLIENT”):** \_\_\_\_\_

**CO-BORROWER (“CLIENT”):** \_\_\_\_\_

**SUBJECT PROPERTY ADDRESS:** \_\_\_\_\_

**CITY:** \_\_\_\_\_ **STATE:** \_\_\_\_\_

**1. Mortgage Loan.** Bayview Residential Brokerage (“Bayview Residential” or the “Broker”) will use its best efforts to assist Client in preparing and submitting to Client’s Mortgage Lender such information and materials as Client’s Mortgage Lender may require in order to consider offering Client a “Modification,” as that term is described herein, of Client’s “Mortgage Loan.” The term Mortgage Loan shall mean and refer to the following loan:

Client’s Mortgage Lender: \_\_\_\_\_

Mortgage Lender’s Address: \_\_\_\_\_

Mortgage Lender’s Loan Account Number: \_\_\_\_\_

Loan Balance: \$ \_\_\_\_\_

Address of Client’s Real Property: \_\_\_\_\_

*Street Address*

\_\_\_\_\_  
*City, State and Zip Code*

**2. No Obligation Consultation.** At no obligation, Bayview Residential will determine whether Client’s Mortgage Lender engages in loan modifications. If so, Bayview Residential will assist Client in assessing whether Client may qualify for a loan modification, in accordance with such lender requirements and guidelines. Such assistance and assessment is made by reviewing Client’s income documentation, including tax returns and pay stubs. If Bayview Residential determines that Client’s Mortgage Lender will not offer loan modifications, or if it is determined that Client will not qualify for a loan modification, or if for any reason Client does not wish to proceed, Client will owe no fee to Bayview Residential, which will then terminate its services and no fee shall be due to, or collected by, Bayview Residential. These services shall be provided and concluded on or before \_\_\_\_\_, *(insert date which is no more than 10 days after the Effective Date)*.

**3. Deposit of Fees to Client Trust Account.** If, upon conclusion of the No Obligation Consultation described in the preceding Section 2, Client wishes for Bayview Residential to provide any additional services, then Client shall be required to deposit the sum of Three Thousand Five Hundred Dollars (\$ 3,500.00), (the "Fee") with Bayview Residential Brokerage. The Fee shall be due on \_\_\_\_\_, (*insert date which is 10 days after the Effective Date*). Bayview Residential shall deposit the Fee into Bayview Residential's Client Trust Account, number 222-2855047 with Wells Fargo Bank, 1875 S. Bascom Avenue, Suite 119, Campbell, CA 95008.

**Notice: The amount or rate of fees specified in this agreement for services is not fixed by California law. Fees are set by each broker individually and are subject to negotiation between the client (principal) and the broker.**

\_\_\_\_\_  
*Client Initials*

\_\_\_\_\_  
*Client Initials*

As set forth in this Agreement, Bayview Residential agrees to:

Assess whether Client's Mortgage Lender engages in loan modifications. If so, assist Client in assessing whether Client may qualify for a loan modification, in accordance with such lender's requirements and guidelines. Such assistance and assessment is made by reviewing Client's income documentation and by preparing a financial worksheet as to Client's current financial status.

If Client's Mortgage Lender will not engage in loan modifications; or, if it is determined that Client will not qualify for a loan modification; or, if for any reason Client does not wish to proceed, Client will owe no fee to Bayview Residential, which will then terminate its services.

If, upon conclusion of the consultation described above and in Section 2, Client wishes for Bayview Residential to provide any additional services, then Client shall be required to deposit the sum of Three Thousand Five Hundred Dollars (\$3,500.00) into the Bayview Residential Client Trust Account identified in Section 3. Thereafter, Bayview Residential agrees to provide the following services, in accordance with and pursuant to the preceding Agreement:

If Client's Mortgage Lender engages in loan modifications, if there is a reasonable expectation that the Client desires to engage Bayview Residential, Bayview Residential will work with Client to understand the loan modification process and to assemble and complete all documentation, forms and information needed for Client's Mortgage Lender to consider offering Client a Modification, all as set forth in Section 4 above. Once completed, Bayview Residential will submit a

Loan Modification Package to Client's Mortgage Lender. \$1,000.00

After the submission of a Loan Modification Package as described above and in Section 4, Bayview Residential will work with Client's Mortgage Lender, staying in regular contact with both Client and Client's Mortgage Lender, until Client's Mortgage Lender makes a final decision with respect to the request for Modification, all as set forth in section 5, (a), (b), (c), (d), (e), (f) or(g) as set forth below. \$2,500.00

**Total Potential Fee** \$3,500.00

We have read, understood and agreed to the preceding Advance Fee Summary.

\_\_\_\_\_  
*Client Signature*

\_\_\_\_\_  
*Client Signature*

**4. Loan Modification Package Submission.** If Client's Mortgage Lender engages in loan modifications, if there is a reasonable expectation that Client may qualify for a loan modification, and if Client desires to engage Bayview Residential, Bayview Residential will work with Client to assist Client to understand the loan modification process and to assemble and complete all documentation, forms and information needed for Client's Mortgage Lender to consider offering Client a Modification.

- Review the loan modification process with Client, including possible workout options
- Review and analyze Client's relevant financial records, including pay stubs, bank statements, and income tax records
- Prepare financial worksheet with Client's monthly income and debts
- Determine current market value of Client's Real Property
- Preparation of hardship letter for Client
- Compile documents and information needed for Loan Modification Package
- Submission of Loan Modification Package to Client's Mortgage Lender
- Follow up with Client's Mortgage Lender, as needed
- All of the services described in this Section 4 shall be provided and concluded on or

before \_\_\_\_\_, *(insert date which is 30 days after the Effective Date)*.

Client Responsibilities and Obligations: With respect to the Broker performing the services described in this Section 4, Client agrees to furnish the Broker with truthful and accurate information and any documents that will be required by the Broker and the Lender(s) to assess the Client's financial status, including (without limitation) the following:

- Mortgage Statements – past three months
- Paystubs – past two pay periods
- W2 forms, 1099 forms, and/or Tax Returns – past 2 years
- Profit and Loss Statements – past 2 years (if self-employed)
- Bank Statements – past 2 months
- Verification of any other income, Benefit Award Letters, Retirement Statements, Pension Benefit Statements, Annuity Statements, Child Support/Alimony
- Schedules of Real Estate owned, Stock and Mutual Fund Portfolio Statements
- Authorization for the Broker to obtain Client information from Lender

Upon completion of the services described in Section 4 above, a fee of One Thousand Dollars (\$1,000.00) shall have been earned by Bayview Residential. By signature below, Client authorizes and agrees that Bayview Residential shall pay itself from Client's funds held in the Bayview Residential Client Trust Account. However, no payment shall be made until at least five (5) days after Bayview Residential has provided Client with a verified accounting as described in Section 8 below.

**5. Follow-up with Client's Mortgage Lender.** After the submission of a Loan Modification Package as described in the preceding Section 4, Bayview Residential will work with Client's Mortgage Lender, staying in regular contact with both Client and Client's Mortgage Lender, until Client's Mortgage Lender makes a final decision with respect to the request for a Modification. This will include:

- Regular contact with Client's Mortgage Lender and Client
- Securing additional information and documentation, as needed, by Client's Mortgage Lender
- Review with Client the pros/cons of any modification/workout resolution offered by Client's Mortgage Lender
- Assess, with Client, Client's financial ability for repayment of Client's Mortgage Loan, if modified per offered terms
- Secure Client's notarized signatures, as necessary, on any Loan Modification Agreement accepted by Client

A successful loan modification performance or ("Modification"), as used herein, shall mean a workout solution and/or outcome reached with Client's Mortgage Lender, including but limited to any one or more of the following:

- a. securing a reduced or fixed interest rate on Client's Mortgage Loan; or,
- b. securing a conversion of an adjustable interest rate to a fixed rate, either temporarily or permanently; or,
- c. securing a principal reduction on Client's Mortgage Loan; or,
- d. securing elimination, reduction or alternative payment obligations, or securing a repayment plan or some form of forbearance or workout arrangement, for any payment obligations on Client's Mortgage Loan which are past due.
- e. reduce adjustable interest rate / reduce CAPS of adjustable interest rate
- f. stop upward adjustment of adjustable interest rate
- g. arrange for the lender to accept a discounted pay-off or forbearance

All of the services described in this Section 5 shall be provided and concluded on or before \_\_\_\_\_, (*insert date which is 90 days after the Effective Date*).

Upon completion of the services described in this Section 5, a fee of Two Thousand Five Hundred Dollars (\$2,500.00) shall have been earned by Bayview Residential, if and only if, Client's Mortgage Lender offers Client: (a) a reduced or fixed interest rate on Client's Mortgage Loan; or, (b) a conversion of an adjustable interest rate to a fixed interest rate, either temporarily or permanently, on Client's Mortgage Loan; or, (c) a principal reduction on Client's Mortgage Loan; or, (d) elimination, reduction or alternative payment obligations, or a repayment plan, or some form of forbearance or workout arrangement, for any payment obligations on Client's Mortgage Loan which are past due. By signature below, Client authorizes and agrees that Bayview Residential shall pay itself from Client's funds held in the Bayview Residential Client Trust Account. However, no payment shall be made until at least five (5) days after Bayview Residential has provided Client with a verified accounting as described in Section 8 below.

**6. Lender Decision Final.** Any and all decisions made by the Lender(s) are to be considered final and the Client fully understands that if the modification is accepted that they are bound by the new terms and any failure to comply with these terms are solely the responsibility of the above named Client. Bayview Residential Brokerage and its Agents will no longer be a part of this modification and will not be responsible for any further action, either by the Lender or the Client.

**7. Refund of Fees.** Fees not earned by Bayview Residential in accordance with the terms of this Agreement, shall be refunded to Client, without cost or deduction of any kind.

**8. Verified Accounting.** Bayview Residential shall provide Client with verified accountings of the disposition of Client's funds from the Bayview Residential Client Trust Account. Such



verified accountings will be provided at least once each quarter and again when Bayview Residential has completed all services to be performed by it pursuant to this Agreement. Each accounting shall be in the form of Exhibit B attached hereto, and shall provide the following information:

1. Client's name;
2. The name of each Bayview Residential agent who has provided services to Client pursuant to this Agreement;
3. A description of services provided by Bayview Residential to date;
4. Identification of the Bayview Residential Client Trust Account into which Client's funds have been deposited;
5. That \$ 3,500 was collected from Client on \_\_\_\_\_ (*insert date deposit received from Client pursuant to Section 3*); and,
6. A description of all disbursements of Client's funds from the Bayview Residential Client Trust Account, including the date of each such disbursement and the recipient thereof.

**9. Term.** Client may terminate this Agreement, at any time, with or without cause. This Agreement shall automatically terminate on \_\_\_\_\_, (*insert date which is 90 days after the Effective Date*). Upon termination of this Agreement, for any reason, any and all unearned funds shall be refunded to Client, without cost or deduction of any kind.

**10. Indemnification.** Client agrees to indemnify, defend and hold the Broker harmless from all damages, liabilities, claims, obligations, disputes, litigation and/or judgments (and reasonable attorneys' fees and costs) which (i) arise from or are related to any incorrect material information and/or material omissions in information supplied by Client to the Broker and/or (ii) arise from or are related to any material facts that the Client knows but fails to disclose.

**11. Binding Arbitration.** Arbitration is the referral of a dispute to one or more impartial persons for final and binding determination. It is private and informal, designed for quick, practical, and inexpensive settlements. Arbitration is an orderly proceeding, governed by the rules of procedure and standards of conduct prescribed by law. It is agreed by Bayview Residential Brokerage and Client as follows:

a. Any controversy or claim arising out of or relating to this Agreement and/or the relationship by and between Client and Bayview Residential Brokerage, shall be resolved by binding arbitration. The arbitration shall be conducted in Santa Clara County, before a sole arbitrator in accordance with the laws of the State of California. The arbitration shall be administered by JAMS pursuant to its Streamlined Arbitration Rules and Procedures. Judgment upon any award rendered by such arbitrator shall be binding and final and may be entered in any court of competent jurisdiction.

b. Client has been advised, understands and agrees that this "Binding Arbitration" provision is intended to bar and has the legal effect of barring any suit in the courts, with the exception of the enforcement of an arbitrator's award or judgment, between Client and Bayview Residential Brokerage and effectively constitutes a waiver of the right to trial by jury.

c. Bayview Residential Brokerage agrees to pay the arbiter's fee, if and when required by law to do so.

**I/WE HAVE READ AND UNDERSTAND THE FOREGOING NOTICE AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "BINDING ARBITRATION" PROVISION TO NEUTRAL BINDING ARBITRATION.**

Client: \_\_\_\_\_ Bayview Residential Brokerage:

Client: \_\_\_\_\_ By: \_\_\_\_\_

## **11. General Provisions**

### **Governing Law**

This Agreement shall be governed and construed and enforced in accordance with the laws of the State of California.

### **Severability**

If any provision of this Agreement is held to be unenforceable for any reason, it shall be adjusted rather than voided, if possible, in order to achieve the intent of the parties to the extent possible. In any event, all other provisions of this Agreement shall be deemed valid and enforceable to the full extent possible.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement to be effective as of the Effective Date.

**Notice: California Civil Code Section 2945.4 prohibits any real estate licensee from claiming, demanding, charging, collecting or receiving any compensation from a person whose residence is in foreclosure until all of the promised services have been fully performed and completed. DO NOT SIGN THIS AGREEMENT IF A NOTICE OF DEFAULT HAS BEEN RECORDED AGAINST THE PROPERTY.**

\_\_\_\_\_  
*Client Initials*

\_\_\_\_\_  
*Client Initials*

**CLIENT (PRINCIPAL/PROPERTY OWNER) CERTIFIES THAT A NOTICE OF DEFAULT HAS NOT BEEN RECORDED AGAINST THE PROPERTY.**

\_\_\_\_\_  
*Client Initials*

\_\_\_\_\_  
*Client Initials*

This Agreement is to be performed at San Jose, California.

CLIENT(S)

BAYVIEW RESIDENTIAL BROKERAGE

\_\_\_\_\_  
**Signature**

**Printed Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
Julia Schloss

Broker Officer

DRE Lic. #01498198

**Date:** \_\_\_\_\_

\_\_\_\_\_  
**Signature**

**Printed Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Exhibit A**  
**Advance Fee Accounting**

Dated: \_\_\_\_\_

1. Client: \_\_\_\_\_

Client: \_\_\_\_\_

2. Name of Bayview Residential agent(s) providing services:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Description of services provided by Bayview Residential to date:

\_\_\_\_\_

\_\_\_\_\_

Lender Name \_\_\_\_\_

Lender Address \_\_\_\_\_

\_\_\_\_\_

Loan Account Number \_\_\_\_\_

Date Loan Modification Package submitted: \_\_\_\_\_

4. Identification of the Bayview Residential Client Trust Account into which Client's funds have been deposited:

Bayview Residential Client Trust Account # 222-2855047 located at:

Wells Fargo Bank  
1875 S. Bascom Ave., Suite 119  
Campbell, CA 95008

5. The total amount of funds collected from Client is \$ 3,500.00.

6. Description of all disbursements of Client's funds from the Bayview Residential Client Trust Account, including the date of each such disbursement and the recipient thereof:

<b>Date</b>	<b>Recipient</b>	<b>Amount</b>
-------------	------------------	---------------

<b>Balance/Refund</b>	<b>\$</b> _____
-----------------------	-----------------

I attest that the above accounting is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2008 at San Jose, California.

\_\_\_\_\_  
Julia Schloss,  
Broker Officer DRE # 01498198

**Bayview Residential Brokerage  
Authorization Form**

**Date:** \_\_\_\_\_

**Borrower's Name:**

**Social Security Number:**

\_\_\_\_\_

**Co-Borrower's Name:**

**Social Security Number:**

\_\_\_\_\_

I/We authorize Bayview Residential Brokerage and, it's Agents, to communicate and negotiate with my/our mortgage lender(s) concerning my/our hardship.

I am requesting my/our mortgage lender to allow Bayview Residential Brokerage and its Agents to do whatever reasonably possible to avoid foreclosure and/or restructure my/our loan terms due to the hardship I/we am/are experiencing. The information that Bayview Residential Brokerage may obtain from me/us is only to be used in the processing of my application for a repayment plan with my/our current lender.

Please make any future communication with me/us, in writing AND please provide my authorized representative with a copy of any correspondence sent to me/us. If you must speak with someone regarding this account, please contact my authorized representative who is assisting me/us in modifying my/our loan.

This form may be photocopied and/or faxed. A copy or facsimile shall be effective consent in the absence of the original document.

\_\_\_\_\_  
Client Signature

\_\_\_\_\_  
Client Signature

### Financial Information Worksheet

Loan No: \_\_\_\_\_

Today's Date: \_\_\_\_\_

Borrower's Name:	Borrower's Social Security Number:
Co-Borrower's Name:	Co-Borrower's Social Security Number:
Borrower's Work No: Co-borrowers work No:	Resident Telephone Number:
Name of Employer: _____ How Long _____ Yrs. _____ Mo: _____	Name of Employer: _____ How Long _____ Yrs. _____ Mo: _____

Property Address: Street Address: City: _____ State: _____ Zip Code: _____							
Monthly Income							
Description	Borrower's Income	Co-Borrower's Income					
Monthly take home pay							
Commission/Bonus							
Other Income/Specify <small>CHILD SUPPORT ALIMONY OTHER</small>							
Assets and Debts							
Description	Estimate Value	Description	Mo. Paymt	Bal. Due	Description	Mo. Paymt	Bal. Due
Home		Mortgage Payment			Child Support		
Other real estate		2 <sup>nd</sup> Mortgage Paymt			Cable		
Automobile		Real Estate Taxes			Medical exp.		
Automobile		Other mortg / rent			Medical /life insurance		
Checking account		Alimony/child support			Student loan		
Savings money mkt.		Automobile loan			Credit card 1		
IRA Acct.		Auto gas, maint, parking			Credit card 2		
401k ESOP Acct.		Insurance – auto			Credit card 3		
Stocks, bonds, CD's		Food/toiletries			Dry cleaning		
Other investments		Utilities / telephone			Miscellaneous		
		Home Insurance					

## REASONS FOR HARDSHIP

**I am having trouble making my monthly payment due to financial difficulties.**

I believe that my situation is: ☐ **Temporary** ☐ **Permanent**

My financial difficulties are the result of (check all that apply):

☐ **UNEMPLOYMENT** (Start Date \_\_\_\_\_, End Date \_\_\_\_\_)

**Explain:**

---

---

---

---

☐ **EXCESSIVE FINANCIAL RESPONSIBILITIES**

**Explain:**

---

---

---

---

☐ **ILLNESS** (Start Date \_\_\_\_\_, End Date \_\_\_\_\_)

**Explain:**

---

---

---

---

☐ **REDUCTION IN INCOME** (Start Date \_\_\_\_\_, End Date \_\_\_\_\_)

**Explain:**

---

---

---

---

☐ **DEATH IN THE FAMILY** (Date of Death \_\_\_\_\_)

**Explain:**

---

---

---

---



☐ **CREDIT DENIAL** (please explain any attempts made to secure additional financing to cure your hardship)

---

---

---

---

☐ **OTHER**

**Explain:**

---

---

---

---

---

## Hardship Letter

**Date:** \_\_\_\_\_

**Borrower's and Co Borrower's Names:** \_\_\_\_\_

**Borrower's Address:** \_\_\_\_\_

**Explain:**

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

**Borrower Signature**

**Co Borrower Signature**

### Proposed Modification

	1 <sup>st</sup> Mortgage Note	2 <sup>nd</sup> Mortgage Note
Max Affordable Payment per customer's request:	_____	_____
NOTES:		
Plus Tax:	_____	_____
Plus Ins:	_____	_____
<b>Total:</b>	_____	_____
Ideal Term:	_____	_____
Ideal Term:	_____	_____
Principal balance required to meet client's terms:	_____	
Less Original Principal Balance before request is made:	_____	

**I/We can manage a monthly payment of \$\_\_\_\_\_ without a hardship. Any higher monthly payment than \$\_\_\_\_\_ per month, and I/we will be forced to either sell or lose my home.**

Borrower: \_\_\_\_\_ Co-borrower: \_\_\_\_\_

**PLEASE PROVIDE ANY LETTERS OR CORRESPONDENCE FROM YOUR  
CURRENT MORTGAGE LENDER(S).**

## REQUIRED DOCUMENT LIST

- ☐ FULL CLIENT APPLICATION PACKET – All questions answered and information filled out completely. Signed release agreement, hardship letters, and completed financial worksheet.
- ☐ INCOME DOCUMENTS for all members of the household, i.e. paycheck stubs and any other income statements (Last 30 days completing one month)
- ☐ MOST RECENT FEDERAL INCOME TAX RETURNS – **FEDERAL ONLY**
- ☐ LAST THREE MONTHS OF BANK STATEMENTS – **All** pages, **All** accounts.
- ☐ MORTGAGE STATEMENTS – Any and all correspondence from the lender about late payments or foreclosure.
- ☐ HOMEOWNER'S INSURANCE INFORMATION
- ☐ HOUSEHOLD BILLS – Any and all health insurance, car insurance, cable, utility, etc.
- ☐ ANY CREDIT DENIAL LETTERS – If you have attempted to obtain additional credit through a residential refinance application but have been denied it will be helpful to supply us with a copy.
- ☐ PAYMENT FOR SERVICES – Cash, check, credit card, or money order. Signed and filled out hold check agreement if check is to be held for any reason. No hold checks over 30 days from initiation.
- ☐ COVER LETTER – Prepared by agent summarizing client's modification goals.

## COMMUNICATIONS LOG

Use this page for any Client requests, recommendations and other notations:

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.